THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23130 OF 2002

Date: 11.07.2007

Between:

Scheduled Caste Educated,
Unemployed Labour Contract
Cooperative Society, Bobbarlanka,
East Godavari District

. . .Petitioner

AND

The Government of Andhra Pradesh and others

. . .Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.23130 OF 2002

ORDER:

This writ petition is filed for a writ of mandamus to declare the action of respondent Nos.2 and 3 in not clearing the work amount due to the petitioner in pursuance of the work executed by the petitioner as per L.S.Agreement No.36 DC/95-96 in spite of clear report given by respondent No.3 as illegal, arbitrary and violative of Article 14 of the Constitution of India and further action of respondents in raising technical objection relating to deduction of quantity of 40% as illegal and arbitrary.

The petitioner society was entrusted with the work of "formation of GROYNE" at KM.26.892 of Gowthami River Left Flood Bank near Kapileswarapuram Village, East Godavari District with a sanctioned amount of 8.13 lakhs and an agreement was entered into vide L.S.Agreement No.36 DC/95-96 for Rs.8,70,576/-. The work was entrusted in the month of December 1995 (though the petitioner claimed that it was entrusted in 1996, in the counter-affidavit it is stated that the work was actually entrusted in December, 1995). Since a part of the bill amount was not paid to the present petitioner, the writ petition is filed for the aforementioned relief.

A counter affidavit has been filed by Shri B.V.S.Prakasa Rao, Superintending Engineer, Irrigation Circle, Dowlaiswaram, East Godavari District, in which it is admitted that the work was awarded to the petitioner and that it collected rough stones to the tune of 2149.50 Cubic Meters during the period December, 1995 to December, 1996

as against the stipulated quantity of 4290 Cubic Meters; that the said quantity was check measured and payment was made. It is further stated in the counter affidavit that respondent No.3 inspected the work on 06.01.2001 and found that “Groyne” was completed in all respects and assessed the quantity at 1001.50 Cubic Meters. It is admitted that as no measurements were taken in the M.Book for the further quantity of stone, the petitioner society has not been paid any further amount and that a report to this effect has been submitted to the Government on 07.09.2001 with a request to issue instructions to get the relevant measurements recorded in the M.Book by the present officers so as to arrive at the quantum of the work executed by the petitioner for the purpose of making final payment for the value of the work done by the petitioner society.

At the hearing, learned counsel for the petitioner submitted that though the work done by the petitioner was admitted by the respondents in their counter-affidavit filed as far back as 18.02.2003 and they have further pleaded that the Government’s approval is awaited, despite lapse of four years time even after filing of the counter-affidavit, no measurements were taken nor payments were made.

There is no representation on behalf of the respondents.

Having regard the clear admissions made in the counter-affidavit that the work “Groyne” was completed and the quantity was assessed at 1001.50 Cubic Meters, the respondents did not make any payment even after filing of the counter-affidavit. In the face of the admitted facts, I do not find any justification for the respondents to withhold the amounts, which are legitimately due to the petitioner.

In these circumstances, I deem it appropriate to direct the respondents to take immediate steps to measure the balance work executed by the petitioner society if not already measured and pay the final bill within a period of four weeks from the date of receipt of a copy of this order. It is further made clear that if payment is not made within the said time, the amount liable to be paid to the petitioner shall carry interest @12% per annum on the delayed payment. Ordered accordingly.

C.V.NAGARJUNA REDDY, J

11th July, 2007

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